IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2457 OF 2003

Shri Narhari Ganpat Padol ..Petitioner

V/s

Smt.Kamalbai Dhondiram Khirkade ..Respondent

Shri Amol Mhatre i/b P.K.Dhakephalkar for Petitioner

Ms Smita Mane i/b Shri Praful Shah for Respondent

CORAM:S.R.SATHE,J.

DATED:9th Jan. 2006

P.C.:-

. Heard both the learned Advocates.

. Petitioner the original applicant in Misc. Application No.2549 of 2001 has filed this writ petition against the order whereby his application for condoning delay was rejected by the Court of 2nd Additional District Judge, Nasik.

. Admittedly there was delay of about 74 days on the part of the applicant in filing the appeal against the decree passed against him. According to him suit for specific performance was decreed against him on 13-3-2000. However, he received the knowledge about

the same on 26-6-2001. He applied for certified copy on 20-7-2001 and received copy on 19-9-2001 and then filed the appeal. It is his case that he was suffered from jaundice and as such there was delay in filing the appeal.

. From perusal of the judgment passed by the 2nd Additional District Judge, Nasik it is very clear that the applicant was served with the execution proceedings arising out of the said decree dated on 13-3-2001 and had in fact appeared in the execution court and sought time. So, his case that he got knowledge about the case already decreed on 26-6-2001 is totally false. Even thereafter he did not take immediate steps and kept quite till 20-7-2001. There is nothing on record to indicate that he was bed ridden as a result of jaundice and was not in a position to move the Court. The lower Court has taken into consideration all the facts and circumstances of the case and evidence on record and has rightly held that the applicant has failed to give any satisfactory explanation about the delay in filing the appeal. The order passed by the lower Court is legal and correct. There is absolutely no necessity to exercise the special powers in writ jurisdiction and to interfere with the said order.

. Hence writ petition is rejected.

(S.R.SATHE,J.)